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EXAMINER

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ART UNIT PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/654,779
Filing Date: September 04, 2003
Appellant(s): BIGGS, BLYTH S.

MAILED

FEB 03 2006

Technology Center 2600

Herbert C. Schulze
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 28, 2005 appealing from the Office action mailed June 10, 2005.

Art Unit: 3677

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct. However, appellant is advised to adhere with proper subject headings set forth in 37 CFR 41.37 (see Summary of Invention).

Art Unit: 3677

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

However appellant is advised to adhere with proper subject headings set forth in 37 CFR 41.37 (see Issues Presented for Review).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

USPN 6,199,245

Blessing

03-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,199,245 to Blessing. Blessing (Fig. 11) discloses a lawn and garden hand tool (20) comprising;

a first straight segment covered by a first hand grip (26); a first curved segment depending from the first straight segment; a second straight segment (32) depending from the first curved segment; a second curved segment (U-shaped bend) depending from the second

Art Unit: 3677

straight segment; a third straight segment depending from the second curved segment; a second hand grip (22) carried by the third straight segment; a third curved segment (inverted U-shaped bend) depending from the third straight segment; a fourth straight segment (30) depending from the third curved segment; and utility tool attachment means (30a) carried by the fourth straight segment.

As to claims 2 and 3 the first, second and a third (24) hand grip sleeve member provided are shaped to conform to a user's fingers. The utility tool attachment means includes a telescoping relationship to the fourth straight segment as seen in Fig. 11(col. 5, lines 32-34).

As to claim 4, the tool handle design of Blessing allows a user to apply a maximum downward pressure while exerting a maximum pulling pressure depending upon the utility implement used. In this case, Blessing discloses a raking implement as seen in Fig. 21.

(10) Response to Appellant's Argument

Appellant's remarks filed in the appeals brief of November 28, 2005 pertaining to independent claims 1 and 4 have been considered and found not to be persuasive.

At the outset, appellant rationalizes a difference between appellant's claimed invention and the multi-component handle of Blessing by asserting that Blessing fails to disclose or suggest the structural arrangement as claimed in claim 1. Here, appellant describes a side-by-side comparison (page 4 of brief) of the structural components between appellant's claimed invention and that of Blessing. The Examiner believes appellant falls short of presenting a structural basis of evidence that would shift the burden to the Examiner to prove Blessing's multi-component handle is deficient from anticipating all of the limitations as recited in claim 1.

Art Unit: 3677

With that said, the Examiner would akin to point out figure 11 of Blessing which clearly illustrates a tool handle **20 (from right to left)** including a downward extending straight section or (outer handle with a hand grip sleeve disposed thereon near 33), next there is an inclined straight section **32**. Between the inclined straight section **32** and the downward extending straight section is a first inverted bend or curved segment as interpreted by the Examiner. Extending beyond the inclined straight section is a first U-shape bend or curved segments and a second inverted bend or curved segment. Joining the first U-shape bend or curved segments and the second inverted bend or curved segment is a first short straight section having a portion of a second hand grip sleeve disposed thereon. Lastly, extending beyond the second inverted bend is a final straight section **30** defining a utility attachment means or tool connection segment **30a**.

Below represents the Examiner's side-by-side comparison of Blessing and appellant's structural limitations of claim 1:

downward extending straight section – appellant's "a first straight segment"

first inverted bend/curved segment – appellant's "a first curved segment"

inclined straight section – appellant's "a second straight segment"

first U-shape bend/curved segment – appellant's "a second curved segment"

first short straight section – appellant's "a third straight segment"

second inverted bend/curved segment – appellant's "a third curved segment"

final straight section – appellant's "a fourth straight segment"

tool connection segment – appellant's "utility tool attachment means"

Clearly, the embodiment shown in figure 11 defines curved as well as straight segments as claimed and the ergonomic multi-component handle of Blessing discloses a combination of curves and straight segments similar to appellant's claim(s) allowing the power of a user, when working, to maximize downward pressure and maximize pulling force as well as providing a handle which uniformly distributes forces to decrease stress on the user (col. 10, lines 22-25). Thus, the Examiner believes all of the structural limitations as embodied in figure 11 and explained in column 5, lines 31-40 of Blessing meet appellant's structural limitations as presented and rejection of claim 1 is proper.

Turning to appellant's remarks presented on page 5 of the brief, that Blessing fails to disclose or suggest a maximum pulling power of the handle does not exist. Here, appellant relies on Figs. 1 and 4a as an illustrative example of the missing utility function described above, appellant does not consider the specified embodiment the Examiner relies upon to make the rejection of claim 4. Clearly, the Examiner relies upon figure 11 and column 5, lines 31-39 of the disclosure of Blessing to meet all of the limitations claimed by appellant. Evidence is found in Blessing that a maximum pulling power exerted by a user is achieved by the particular utility implement (Fig. 21) which can be attached to multi-component handle illustrated in figure 11, not Figs. 1 and 4a where a utility implement attached to the handle performs a lifting function as stated in appellant's remarks.

In conclusion, Blessing realizes a need to create a multi-component handle, which is easy in use but effective when used by a user while affording reduced strain or stress on the user (see column 1, lines 32-42).

Art Unit: 3677

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this Examiner's Answer.


For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,


André L. Jackson

Patent Examiner (AU 3677)

Conferees:

William Miller (Primary Examiner substituting for Daniel Stodola) 

Judy Swann (Host SPE) 


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